

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that the preliminary order is to be reversed. Claimant alleges injury on December 20, 1994. This claim was assigned Docket No. 199,145. Claimant had previously filed a claim for a low back injury arising out of and in the course of his employment with respondent on June 3, 1991. The first claim had been assigned Docket No. 190,947. For purpose of preliminary hearing both claims were consolidated and each

insurance carrier was represented by separate counsel. The dispute at the preliminary hearing was, in part, whether the injury to the neck, shoulder and arm constituted a new injury or was instead a natural and probable consequence of the low back injury of June 3, 1991.

Claimant describes his injury of December 20, 1994 as follows:

"I had been to the coffee pot and was returning to my desk, my right leg gave out, which it has done numerous times since my first injury, and in trying to catch myself, I made a jerking motion that either pinched or pulled some nerves and caused some neck, shoulder and arm discomfort." (Preliminary hearing transcript pages 13 & 14)

Claimant was examined and treated by Dr. C. Reiff Brown after the 1994 injury. Dr. Brown described claimant's injuries as having been caused by a jerking motion resulting from his previous back problem and weakness in his leg.

On the basis of the foregoing evidence, the Administrative Law Judge found that the December 20, 1994 accident constituted a new accident which would be the responsibility of the claimant's insurance carrier in December 1994, Continental National American Group. From the evidence presented at the preliminary hearing, the Appeals Board concludes the finding by the Administrative Law Judge should be reversed. The description of the accident given by claimant does not suggest a new or separate accident arising out of and in the course of his employment with respondent. Rather, it indicates an injury which would be considered a natural and probable consequence of claimant's low back injury of June 3, 1991. Reese v. Gas Engineering & Construction Co., 219 Kan. 536, 548 P.2d 746 (1976). Accordingly, the Appeals Board finds that the Preliminary Hearing Order should be modified. The Appeals Board finds and orders that claimant should be provided medical benefits as prescribed by original order, but should be provided by the insurance carrier for the June 1991 injury, National Farmers Union Property and Casualty Company.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the July 17, 1995 Order by the Administrative Law Judge shall be reversed. The Appeals Board finds that the shoulder and neck injuries are a natural and probable consequence of the June 3, 1991 injury and the cost of treatment for the shoulder and neck should be borne by National Farmers Union Property and Casualty Company.

IT IS SO ORDERED.

Dated this ____ day of October, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Richard A. Boeckman, Great Bend, Kansas
Kurt W. Ratzlaff, Wichita, Kansas
Edward D. Heath, Jr., Wichita, Kansas
Kent Roth, Great Bend, Kansas
George R. Robertson, Administrative Law Judge
Philip S. Harness, Director